

**DRAFT
MINUTES
WESTPORT CONSERVATION COMMISSION
MAY 16, 2012**

The May 16, 2012 of the Westport Conservation Commission was called to order at 7:00 p.m. in Rooms 201/201A of the Westport Town Hall.

ATTENDANCE

Commission Members:

W. Fergus Porter, Chair
Kathy Belzer
Jeffress Gouverneur
Anna Rycenga
Pat Shea, Esq.
John Skinner
John Washburn

Staff Members:

Alicia Mozian, Conservation Department Director
Lynne Krynicki, Conservation Analyst
Colin Kelly, Conservation Compliance Officer

This is to certify that these minutes and resolutions were filed with the Westport Town Clerk within 7 days of the May 16, 2012 Public Hearing of the Westport Conservation Commission pursuant to Section 1-225 of the Freedom of Information Act.

Alicia Mozian
Conservation Department Director

Continued Show Cause Hearing, 17 Woodway Lane, 7:00 pm, Room 201/201A: In accordance with section 15.4 of the Regulations for the Protection and Preservation of Wetlands and Watercourses for Westport, Connecticut, to consider a Cease & Correct Order issued to Divyesh and Krishna R. Patel of **17 Woodway Lane (Lot: 021 Map: A16)** for tree clearing within a Conservation Restriction Area without a permit.

Mr. Porter, Ms. Belzer, Mr. Gouverneur and Mr. Washburn were sitting for this Show Cause Hearing. Mr. Field sat at the April 30, 2012 meeting but was unable to attend the meeting.

Ms. Mozian reminded the Commission that this hearing was continued from April 30, 2012 to allow the property owner to submit a restoration plan. A plan drawn by Oliver's Nursery was submitted on Friday, May 11, 2012. She noted the Commission conducted a field trip to the site on May 14, 2012.

Mr. Kelly summarized the restoration plan. He noted the planting plan only includes three Maple trees and one Tupelo tree.

Tom Ryder of Land-Tech Consultants reported on the suitability of the restoration plan.

Ms. Mozian commented on the staff's view from the field inspection, which revealed a dense understory but the removal of the trees has significantly changed the sun exposure to the wetland. She stated that over time, the plant species will change and impact the wetlands ability to absorb the flood waters and dry the wetland, thereby affecting the groundwater recharge. She commented on the size and type of the plants in the restoration plan. She indicated that staff is okay with the type and size of the plantings selected but feel that more shade trees are needed. She expressed concern with an aggressive invasive plant removal project as suggested in the proposal without a native plant replacement plan to go along with it. She stated this would be a multi-year project.

Mr. Ryder agreed but indicated that the restoration plan and the invasive removal project were two separate issues and the latter should be viewed separately.

Mr. Porter and Mr. Gouverneur also felt the tree removal had lead to more light exposure, which could drastically change the wetland. They indicated they would like to see more shade trees.

Mr. Kelly said the plan should ultimately achieve a replication of what was there before. Also, the Commission should not consider the invasive removal as part of how to address the violation.

Mr. Porter stated he would have liked to have seen a plan that was agreed on by the staff.

Mr. Kelly stated staff agrees with the plan as submitted but believes that an additional 2 to 3 deciduous trees be added. He also suggested that a bond be held before any further work be done. Also no invasive plant removal be allowed beyond the toe of the slope at this time.

Motion to AFFIRM the issuance of a Cease and Correct Order issued to Divyesh and Krishna R. Patel of 17 Woodway Lane for tree clearing within a Conservation Easement Area. Removal of said Order shall not take place until plan entitled, "Patel Residence" dated May 2012 by Oliver Nurseries, Inc and accompanying plant list dated April 16, 2012 and received May 11, 2012 is installed with the condition that additional deciduous shade trees be installed with the location and number being approved in the field by Conservation Department staff. The Cease and Correct Order shall remain on the land records until a bond is submitted to the Conservation Department and the plants are installed. The bond shall be held for one full growing season after

plant installation. The proposal for invasive plant removal also submitted by Oliver Nurseries, Inc. on May 11, 2012 is not allowed beyond the top of slope of the bottom of the wall.

Motion: **Gouverneur** **Second: Belzer**
Ayes: **Gouverneur, Belzer, Porter, Washburn**
Nayes: **None** **Abstentions: None** **Vote 4:0:0**

Motion to close the Show Cause Hearing.

Motion:Gouverneur **Second: Belzer**
Ayes: **Gouverneur, Belzer, Porter, Washburn**
Nayes: **None** **Abstentions: None** **Vote: 4:0:0**

Ms. Rycenga, Ms. Shea and Mr. Skinner joined the meeting at 7:30 p.m.

Work Session I: 7:30 pm, Room 201/201A

Motion to move into work session.

Motion: **Gouverneur** **Second: Shea**
Ayes: **Gouverneur, Shea, Belzer, Porter, Rycenga, Skinner, Washburn**
Nayes: **None** **Abstentions: None** **Vote: 7:0:0**

1. Receipt of Applications

Ms. Mozian stated there were no applications to receive but indicated the submission deadline for the June 20, 2012 meeting is May 17, 2012. However, she noted staff is expecting a full agenda.

2. Report by Colin Kelly, Conservation Compliance Officer on the status of existing enforcement activity.

Mr. Kelly stated there was no enforcement activity to report other than the violation at 17 Woodway Lane, which the Commission just discussed.

3. 20 Jesup Rd. – (Levitt Pavillion) status report by staff on Permit Condition 18 of Resolution #WPL-8522-09 on soil testing requirement in advance of perimeter planting.

Ms. Krynicki gave an overview of what was permitted since Chairman Porter was the on remaining sitting member. She noted the site was an old landfill; therefore, Condition 18 required that soil testing be done first on the embankment adjacent to the river and the pedestrian path to determine if there was any buried, hazardous refuse that would be disturbed for the required planting. None was found in the 30 test pits, which were 18" deep.

Ms. Mozian reported that the Environmental Monitoring Plan was submitted and reviewed by the Conservation Department staff, the Fire Department and the Town Attorney.

4. 4 Leslie Lane- request by staff to issue an administrative approval for a residential addition within the 50 ft upland review area.

Ms. Krynicki presented the proposal to bump out a portion of the front of the house that would be within the 50-foot setback by 2 feet. She indicated that the septic was installed in

- c. **DEEP Training** - Ms. Mozian reminded members of the June 13, 2012 training at Housatonic Community College for Segment II.

Motion to close Work Session I and move into the Public Hearing.

Motion: **Gouverneur** **Second:** **Shea**
Ayes: **Gouverneur, Shea, Belzer, Porter, Rycenga, Skinner, Washburn**
Nayes: **None** **Abstentions:** **None** **Vote:** **7:0:0**

Public Hearing: 8:00 p.m., Room 201/201A

1. **79 Newtown Turnpike:** Application #IWW/M-9091-12 by Peter Romano of Land-Tech Consultants on behalf of Three Bears Associates to amend wetland map #A14.

Tom Ryder of Land-Tech Consultants presented the application on behalf of the property owner. He stated Chris Allen of Land-Tech Consultants flagged the wetlands. Bill Kenny reviewed the flagged line on behalf of the town. There was a discrepancy in one area and the two soil scientists came to an agreement. A map was submitted showing the agreed upon line dated April 27, 2012.

With no comments from the public, the hearing was closed.

Motion: **Gouverneur** **Second:** **Shea**
Ayes: **Gouverneur, Shea, Belzer, Porter, Rycenga, Skinner, Washburn**
Nayes: **None** **Abstentions:** **None** **Vote:** **7:0:0**

Findings
Application #IWW/M 9091-12
79 Newtown Turnpike

1. **Application Request:** The applicant is requesting to amend wetland map #A-14.
2. **Permits Issued for this Property:**
 - #132 6/15/77 Pond dredging
 - AA 919-83 Expand kitchen and alter parking facilities
3. **Soil Scientist for Applicant:** Christopher Allan of Land-Tech Consultants, Inc
4. **Soil Scientist for Town of Westport:** William Kenny of William Kenny Associates, LLC
5. **Plan reviewed:** "Zoning/Location Survey Map of Property Prepared for Chabad Lubavitch of Westport, 79 Newtown Turnpike, Westport, Scale: 1" = 30' dated December 12, 2011 and revised to April 25, 2012, prepared by Walter H. Skidd- Land Surveyor LLC
6. **Wetlands Description**

Wetland boundary field investigation by Christopher Allan, Certified Soil Scientist dated March 7, 2012 described the following wetland soil occurring on the property:

Aquents: The Aquent soil consists of poorly drained and very poorly drained disturbed land areas. Aquents soils have the following characteristics: they have less than 2 feet of fill over naturally occurring poorly drained or very poorly drained soils; or the naturally occurring wetland soils have been mixed to the extent that the natural soil layers are no longer identifiable; or the original soil materials have been excavated to the groundwater table; or the groundwater levels have been artificially raised. These soils have a seasonal high water table within 20 inches of the soil surface, have an aquic moisture regime and can be expected to support hydrophytic vegetation.

Map Unit 18- Catden and Freetown soils:

This map unit is 40 percent Catden soils, 40 percent Freetown soils and 20 percent minor components.

Catden soils- This component occurs on depression landforms. The parent material consists of woody and herbaceous organic material. The slope ranges from 0 to 2 percent and the runoff class is negligible. The depth to a restrictive feature is greater than 60 inches. The drainage class is very poorly drained. The minimum depth to a seasonal water table when present, is about 0 inches.

Freetown soils- This component occurs on depression landforms. The parent material consists of woody and herbaceous organic material. The slope ranges from 0 to 2 percent and the runoff class is negligible. The depth to a restrictive feature is greater than 60 inches. The drainage class is very poorly drained. The minimum depth to a seasonal water table when present, is about 0 inches.

7. Mr Allan described the non-wetland soils as the following:

Map Unit: 306- Udorthents-Urban land complex:

This map unit is 50 percent Udorthents soils, 35 percent Urban Land, 15 percent minor components.

Udorthents soils- This component occurs on cut (road, railroad, etc.), railroad bed, road bed, spoil pile, urban land fill, and spoil pile landforms. The slope ranges from 0 to 25 percent and the runoff class is medium. The depth to a restrictive features varies, but is commonly greater than 60 inches. The drainage class is typically well drained. The ponding hazard is none. The minimum depth to a seasonal water table is greater than 60 inches.

Urban Land- Urban land is land mostly covered by streets, parking lots, buildings, and other structures of urban areas. The slope ranges from 0 to 35 percent and the runoff class is very high.

8. Property Description and Facts Relative to the Map Amendment Application:

- a. The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as "streamside, floodplain, wooded swamp with a permanent watercourse. This watercourse and wetlands are part of the Poplar Plains Brook which is a tributary to the Saugatuck River and its' watershed.
 - b. Landscape position of the residence and existing site improvements is a gently inclined backslope
 - c. A portion of the parcel exists within the Aquifer Protection Overlay Zone.
 - d. Property does not exist within the Coastal Areas Management Zone.
 - e. The deciduous woodlands on the site are dominated by red maple with shrub species such as sweet pepperbush and clammy azalea. The upland areas adjacent to the building have been cleared of vegetation. A section of a parking lot lies within the wetland limit.
 - f. The Waterway Protection Line Boundary is located 15' from the wetland boundary.
9. The Town of Westport retained the services of William Kenny of William Kenny Associates, LLC to review the wetland flags as delineated in the field by Christopher Allan of Land-Tech Consultants, Inc. Both soil scientists have agreed to the flagged wetland boundary as amended in the field on April 23, 2012.

Resolution
Application #IWW/M-9091-12
79 Newtown Turnpike

In accordance with Section 8.0 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport, and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW/M-9091-12 by Tom Ryder of Land-Tech Consultants on behalf of Three Bears Associates to amend the wetland boundary on Map #A 14 on the property located at 79 Newtown Turnpike with the following conditions:

Conformance to the plan titled: "Zoning/Location Survey Map of Property Prepared for Chabad Lubavitch of Westport, 79 Newtown Turnpike, Westport, Scale: 1" = 30' dated December 12, 2011 and revised to April 25, 2012, prepared by Walter H. Skidd- Land Surveyor LLC

An electronic file of the above referenced plan in a format acceptable to the Town Engineer must be submitted to the Conservation Department before permits for any further activity will be authorized.

This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void.

Motion: Gouverneur **Second:** Shea
Ayes: Gouverneur, Shea, Belzer, Rycenga, Porter, Washburn, Skinner
Nays: 0 **Abstentions:** 0 **Votes:** 7:0:0

- 2. 115 Roseville Road:** Application #IWW/M-9096-12 by Ted Auer of Diversified Builders Custom Remodeling LLC on behalf of Christian & Courtney Fresnes to amend wetland boundary map #E11.

Ted Auer of Diversified Builders Custom Remodeling LLC presented the application on behalf of the property owners. He indicated Cynthia Rabinowitz was the soil scientist, who flagged the wetland boundary.

Ms. Krynicky stated that Tom Pietras of Soil Science and Environmental Services was retained by the Town and he agreed with Ms. Rabinowitz's flagged line.

With no comment from the public, the hearing was closed.

Motion: Gouverneur **Second:** Shea
Ayes: Gouverneur, Shea, Belzer, Porter, Rycenga, Skinner, Washburn
Nays: None **Abstentions:** None **Vote:** 7:0:0

Findings
Application #IWW/M 9096-12
115 Roseville Road

- 1. Application Request:** The applicant is requesting to amend wetland map #E 11.
- 2. Permits Issued for this Property:**
 - AA 3018-89 Bedroom extension
 - AA 4718-93 New septic system
- 3. Soil Scientist for Applicant:** Cynthia Rabinowitz of ConnSoil, LLC

4. **Soil Scientist for Town of Westport:** Tom Pietras of Soil Science and Environmental Services
5. **Plan reviewed:** "Map of Property Located at 115 Roseville Road Prepared for Christian H. and Courtney A Frenes, Westport, Conn., Scale: 1" = 30' dated May 19, 2011 and last revised to March 14, 2012, prepared by B.G. Root, Surveyor, LLC

6. **Wetlands Description**

Wetland boundary field investigation by Cynthia Rabinowitz of ConnSoil, LLC dated February 28, 2012 described the following wetland soil occurring on the property:

Leicester Series: This is a somewhat poorly drained to poorly drained soil on nearly level or gently sloping land, the Leicester series consist of soils that developed in friable to firm glacial till. These soils occupy wet, low-lying areas or concave side slope areas. The permeability of the soils is moderate in the surface layer and subsoil.

7. Ms. Rabinowitz described the non-wetland soils as the following:

Map Unit: 306- Udorthents-Urban land complex:

This map unit is 50 percent Udorthents soils, 35 percent Urban Land, 15 percent minor components.

Udorthents soils- This component occurs on cut (road, railroad, etc.), railroad bed, road bed, spoil pile, urban land fill, and spoil pile landforms. The slope ranges from 0 to 25 percent and the runoff class is medium. The depth to a restrictive features varies, but is commonly greater than 60 inches. The drainage class is typically well drained. The ponding hazard is none. The minimum depth to a seasonal water table is greater than 60 inches.

Charlton- About two-thirds of the acreage of these well-drained soils are stony to very stony. A typical profile has a surface layer of dark-brown fine sandy loam about 2 inches thick. The subsoil is fine sandy loam that is dark brown or dark yellowish brown. Below 30 inches is a light olive-brown, friable to firm material that varies in texture but generally is gravelly sandy loam or loamy sand. Small angular fragments of rock are common throughout the profile.

Sutton- A typical profile of this moderately well-drained soil in an undisturbed forested area has a surface layer of very dark grayish-brown fine sandy loam about 3 inches thick. The subsoil is yellowish-brown sandy loam in the upper part but grades to light olive-brown sandy loam in the lower part. Mottles of strong, yellowish red, and light brownish gray are common below a depth of 18 inches. The substratum begins at a depth of about 27 inches; it is gray and grayish-brown sandy loam and gravelly sandy loam.

Whitman Series-These very poorly drained soils occur in low-lying, small to medium sized areas where they receive runoff and, in places, material washed from surrounding soils. A typical profile has a surface layer of black stony, fine sandy loam or silt loam about 10 inches thick. Next is a strongly gleyed subsurface layer of gray to light gray loamy sand. The subsoil, which is gleyed consists of gray and greenish-gray fine sandy loam that is distinctly mottled with various shades of brown.

8. **Property Description and Facts Relative to the Map Amendment Application:**

- a. The Westport Wetlands Inventory, prepared by Flaherty Giavara Associates, P.C., dated June 1983 describes this wetland as "a shrub swamp surrounded by a wooded swamp with an intermittent watercourse. This watercourse and wetlands are part of an unnamed local stream.
- b. Landscape position of the residence and existing site improvements is a footslope.
- c. This parcel does not lie within the Aquifer Protection Overlay Zone.
- d. Property does not exist within the Coastal Areas Management Zone.

- e. The deciduous woodlands on the site are dominated by red maple, tulip and poplar tree. The dominant shrub species are those such as sweet pepperbush, highbush blueberry, buttonbush and poison sumac.
 - f. The Waterway Protection Line Boundary is located 15' from the wetland boundary.
9. The Town of Westport retained the services of Tom Pietras of Soil Science and Environmental Services, LLC to review the wetland flags as delineated in the field by Cynthia Rabinowitz of ConnSoil, LLC. In a letter dated May 3, 2012, Mr. Pietras states he concurs with the wetland boundary as flagged by Cynthia Rabinowitz.

Resolution
Application #IWW/M-9096-12
115 Roseville Road

In accordance with Section 8.0 of the Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport, and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #IWW/M-9096-12 by Ted Auer of Diversified Builders Custom remodeling LLC on behalf of Christian and Courtney Fresnes to amend the wetland boundary on Map #E 11 on the property located at 115 Roseville Road with the following conditions:

1. Conformance to the plan titled: "Map of Property Located at 115 Roseville Road Prepared for Christian H. and Courtney A Fresnes, Westport, Conn., Scale: 1" = 30' dated May 19, 2011 and last revised to March 14, 2012, prepared by B.G. Root, Surveyor, LLC
2. An electronic file of the above referenced plan in a format acceptable to the Town Engineer must be submitted to the Conservation Department before permits for any further activity will be authorized.
3. This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void.

Motion: Shea

Second: Rycenga

Ayes: Shea, Rycenga, Porter, Washburn, Skinner, Gouverneur, Belzer

Nays: 0

Abstentions: 0

Votes: 7:0:0

3. **115 Roseville Road:** Application #IWW,WPL/E-9092-12 by Ted Auer of Diversified Builders Custom Remodeling LLC on behalf of Christian & Courtney Fresnes to raze the center portion of the existing house keeping the existing garage and wing to the northwest side of the house, construct a two-story addition, new rear porch, interior renovations, new septic, and drainage. Portions of the work are within the 50 ft. upland review area.

Ted Auer of Diversified Builders Custom Remodeling LLC presented the application on behalf of the property owners. The proposal is to keep the two wings and rebuild the middle of the house, build a new porch to the rear over an existing patio and add a new septic system.

Cynthia Rabinowitz, soil scientist, presented the details of the proposed mitigation. She stated the wetland has been impacted due to the residential development. They are proposing to remove the lawn and plant a riparian buffer along the pond. This will increase the habitat and infiltration. Also, two raingardens are proposed for drainage. She discussed the planting within the raingardens. The existing septic in the wetland is being abandoned and a new septic is being installed to meet all wetland setbacks. The above ground oil tank will be removed and the house will be served by gas.

7. Wetland and Property Description

Wetland soil

Leicester Series: This is a somewhat poorly drained to poorly drained soil on nearly level or gently sloping land, the Leicester series consist of soils that developed in friable to firm glacial till. These soils occupy wet, low-lying areas or concave side slope areas. The permeability of the soils is moderate in the surface layer and subsoil.

- 1) 100 year flood plain as designated by FEMA does not occur in the vicinity of this property.
- 2) Wetlands Inventory Study Description by Flaherty, Giavara Associates, Inc. describes the existing wetland as "a shrub swamp surrounded by a wooded swamp with an intermittent watercourse. This watercourse and wetlands are part of an unnamed local stream.
- 3) IWW defined resource is a wetland and watercourse. A large pond and wetland system are located in the western portion of the site and extend to the north and south and include a wet meadow along Roseville Road on adjacent land to the north.
- 4) Property does not exist within the Aquifer Protection Overlay Zone or a groundwater recharge area.
- 5) Property does not exist within the Coastal Areas Management Zone.

8. Regulated Activities

Development of this project proposal will require work within the 50 foot upland review area. Due to the location of the wetlands to the existing residence and the proposed renovation and construction, the new residence will be within the 50 foot upland review area. The existing house, at its closest point is within 2' ± feet of the wetlands. The existing septic tank and pump chamber, which will be replaced, are located within the wetlands.

9. Conformance to Section 6 of the Inland Wetlands and Watercourses Regulations

6.1 GENERAL STANDARDS

- a) disturbance and pollution are minimized;
- b) minimize height, width, length of structures are limited to the minimum; dimension to accomplish the intended function;
- c) loss of fish, other beneficial organisms, wildlife and vegetation are prevented;
- d) potable fresh water supplies are protected from dangers of drought, overdraft, pollution, misuse and mismanagement;
- e) maintain conservation, economic, recreational and aesthetic qualities;
- f) consider historical sites

This parcel is located on a gentle backslope, which is the landscape position.

The proposed rain gardens and a portion of the new residence are within the IWW regulated upland review areas (20' non-disturbance area for the rain garden and the 50' upland review area for the residence). The existing garage and one wing of the residence will remain.

The main portion of the existing residence is being removed due to a mold problem and also that the structure is in poor condition.

The overall square footage of the building is being reduced. The foundation construction will be a crawl space to minimize impact to groundwater.

A new code compliant septic system will be installed in the southerly portion of the parcel furthest from the pond and wetlands. It appears grading for the septic system will require several mature trees along Roseville Road to be removed.

The existing drive will remain unchanged. There is no proposed grading west of the existing structures that will remain nor the patio. The proposed building renovations do not increase the building footprint and the house will not extend any closer to the wetlands than it does at present.

6.2 WATER QUALITY

- a) flushing rates, freshwater sources, existing basin characteristics and channel contours will not be adversely altered;
- b) water stagnation will neither be contributed nor caused;
- c) water pollution will not affect fauna, flora, physical or chemical nature of a regulated area, or the propagation and habitats of fish and wildlife, will not result;
- d) pollution of groundwater or a significant aquifer will not result (*groundwater recharge area or Aquifer Protection Overlay Zone*);
- e) all applicable state and local health codes shall be met;
- f) water quality will be maintained or improved in accordance with the standards set by federal, state, and local authority including section 25-54(e) of the Connecticut General Statutes
- g) prevents pollution of surface water

To improve overall water quality from roof and storm water runoff, two rain gardens and a large native wetland planting buffer north of the proposed house and existing pool are proposed. They were designed by Cynthia Rabinowitz, president of the Connecticut Association of Wetland Scientists and principal of ConnSoil, LLC.

The plantings will provide increased habitat area along with filtration and renovation of storm water runoff prior to entering the wetland complex including the open watered pond. The location of these plantings as well as the width will also allow recreational use by the residents of their backyard.

No vegetation is proposed to be removed north of the proposed construction area. The existing driveway is graveled and no improvements are planned. A gravel drive will aid in increased storm water infiltration and decreased runoff.

The Weston Westport health District has reviewed and approved the septic system for a three bedroom residence on April 6, 2012. several of the existing components of the system are located within the wetlands and are proposed to be relocated as part of this development proposal.

6.3 EROSION AND SEDIMENT

- a) temporary erosion control measures shall be utilized during construction and for the stabilization period following construction;
- b) permanent erosion control measures shall be utilized using nonstructural alternatives whenever possible and structural alternatives when avoidable;
- c) existing circulation patterns, water velocity, or exposure to storm and flood conditions shall not be adversely altered;
- d) formation of deposits harmful to aquatic life and or wetlands habitat will not occur;
- e) applicable state, federal and local guidelines shall be met.

Erosion control measures are proposed in the area of the rain gardens. Additional measures should temporarily be added in the area where the wetland buffer plantings are proposed to prevent erosion and sedimentation within wetland limits during the plant installation. An interim layer of silt fence at the toe of slope associated with the septic system may be helpful until such time as the area is graded and stabilized.

It appears the best location for a soil stockpile area and construction staging area is east of the existing driveway. This area should be designated in the field with the contractor prior to the initiation of construction.

As significant grading is not proposed, the Commission finds the standard erosion control methods will be acceptable.

Foundation excavation will be for crawl space construction, therefore the Commission finds a dewatering plan is not warranted.

6.4 NATURAL HABITAT STANDARDS

- a) critical habitats areas,
- b) the existing biological productivity of any Wetland and Watercourse shall be maintained or improved;
- c) breeding, nesting and or feeding habitats of wildlife will not be significantly altered;
- d) movements and lifestyles of fish and wildlife (plant and aquatic life) will not be significantly affected;
- e) periods of seasonal fish runs and bird migrations shall not be impeded;
- f) conservation or open space easements will be deeded whenever appropriate to protect these natural habitats.
- g) *Planting plan included with application as mitigation for the proposed activities*

The proposed wetland buffer plantings and the rain garden will help to improve the overall diversity of native plants at the site and to provide habitat and buffering of the wetlands from the active part of the property. The Commission finds the proposed plantings within the wetlands will enhance functions of the wetland buffer and will create additional wetland habitat.

Existing plantings will be protected where possible.

The property on the west side of the watercourse remains as a natural deciduous forest.

6.5 DISCHARGE AND RUNOFF

- a) the potential for flood damage on adjacent or adjoining properties will not be increased;
- b) the velocity or volume of flood waters both into and out of Wetlands and Watercourses will not be adversely altered;
- c) the capacity of any wetland or watercourse to transmit or absorb flood waters will not be significantly reduced;
- d) flooding upstream or downstream of the location site will not be significantly increased;
- e) the activity is acceptable to the Flood & Erosion Control Board and or the Town Engineer of the municipality of Westport

The Commission finds the surface method of infiltration through the use of rain gardens is the optimum method for retention and renovation of the storm water runoff that will be generated. This keeps the runoff in the upper soil horizon that is the most biologically active and provides the best opportunity for nutrient removal.

The drainage calculations have been reviewed by Jim Kousidis of the Engineering Department. He agrees with the approach to try to treat the first flush from the impervious areas because the ground cannot sustain a subsurface system and the overall coverage is being reduced.

One slight modification he recommended to assist the functionality of rain garden #1 would be to raise the bottom elevation to above elevation 25' which appears to be the limit of the wetlands elevation.

6.6 RECREATIONAL AND PUBLIC USES

- a) access to and use of public recreational and open space facilities, both existing and planned, will not be prevented;
- b) navigable channels and or small craft navigation will not be obstructed;
- c) open space, recreational or other easements will be deeded whenever appropriate to protect these existing or potential recreational or public uses;
- d) wetlands and watercourses held in public trust will not be adversely affected.

The current application will not have a significant impact on recreational and public uses.

10. *Waterway Protection Line Ordinance*

Section 148-9 of the WPLO ordinance states the following: An applicant shall submit information to the Conservation Commission showing that such activity will not cause water pollution, erosion and or environmentally related hazards to life and property and will not have an adverse impact on the preservation of the natural resources and ecosystems of the waterway, including but not limited to, impact on ground and surface waters, aquifers, plant and aquatic life, nutrient exchange and supply, thermal energy flow, natural pollution filtration and decomposition, habitat diversity, viability and productivity and the natural rates and processes of erosion and sedimentation.

The Waterway Protection Line boundary exists 15' from the wetland limit. The staff feels that protecting an existing vegetative buffer and extending this buffer by providing additional native plants will restore the following natural functions adjacent to a watercourse or waterbody and will help to safeguard natural resources as they are protected by the Waterway Protection Line Ordinance: 1) provides additional stormwater runoff filtration area that will improve water quality prior to discharge into a waterbody; 2) reduces construction impacts on water bodies by reducing erosion and sedimentation impacts in waterbodies; 3) protects the existing vegetation in close proximity to watercourses and provides additional canopy sized vegetation which results in providing a cooler microclimate which allows for higher oxygen levels in water; 4) reduces water velocities from stormwater runoff prior to discharge into waterbodies which allows vegetation to absorb some non-point pollutants such as fertilizers or herbicides that may otherwise discharge into wetlands/waterbodies; 5) provides slower water velocities which allow more water to infiltrate into the soil, improving groundwater recharge functions and water quality improvement functions; 6) provides and improves upland habitat needed for wildlife dependent on wetlands/watercourses.

Conservation Commission
TOWN OF WESTPORT
Conditions of Approval
Application # IWW,WPL/E 9092-12
Street Address: 115 Roseville Road
Assessor's: Map E-11 Lot 022
Date of Resolution: May 16, 2012

Project Description: To raze the center portion of the existing residence keeping the existing garage and wing to the northwest side of the house, construct a two- story addition, new rear porch, interior renovations, new septic and drainage. Portions of the work are within the 50 foot upland review area.

Owner of Record: Christian and Courtney Frenes

Applicant: Ted Auer of Diversified Builders Custom Remodeling LLC

In accordance with Section 6 of the *Regulations for the Protection and Preservation of Wetlands and Watercourses of Westport* and Section 30- 93 of the *Waterway Protection Line Ordinance* and on the basis of the evidence of record, the Conservation Commission resolves to **APPROVE** Application #**IWW,WPL/E 9092-12** with the following conditions:

1. Completion of the regulated activity shall be within FIVE (5) years following the date of approval. Any application to renew a permit shall be granted upon request of the permit holder unless the Commission finds there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued provided no permit may be valid for more than TEN (10) years.
2. Permits are not transferable without the prior written consent of the Conservation Commission.
3. It is the responsibility of the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, State of Connecticut, or of any political subdivision thereof.
4. If an activity also requires zoning or subdivision approval, special permit or special exception under section 8.3(g), 8-3c, or 8-26 of the Connecticut General Statutes, no work pursuant to the wetland permit shall commence until such approval is obtained.
5. If an approval or permit is granted by another Agency or ordered by the court or settlement reached in any other proceeding, and contains conditions affecting wetlands and/or watercourses, the applicant must resubmit an application for further consideration by the Commission for a decision before work on the activity is to take place.
6. The Conservation Department shall be notified at least forty-eight (48) hours in advance of the initiation of any regulated activity.
7. The applicant shall take all necessary steps to control storm water discharges to prevent erosion and sedimentation, and to otherwise prevent pollution of wetlands and watercourse.
8. Organic Landscaping practices are recommended as described by the Northeast Organic Farming Association. No herbicide or pesticides to be used within regulated areas.
9. All plants proposed in regulated areas must be non-invasive and native to North America.
10. The applicant shall immediately inform the Conservation Department of problems involving sedimentation, erosion, downstream siltation or any unexpected adverse impacts, which may develop.
11. Any material, man-made or natural shall not be deposited in any wetlands or watercourse unless authorized by this permit.

SPECIAL CONDITIONS OF APPROVAL

12. Conformance to the plans entitled:
 - a. "Map of Property Located at 115 Roseville Road Prepared for Christian H. and Courtney A Frenes, Westport, Conn., Scale: 1" = 30' dated May 19, 2011 and last revised to March 14, 2012, prepared by B.G. Root, Surveyor, LLC
 - b. "Frenes Residence, 115 Roseville Road, Westport, Connecticut, Proposed On-Site Subsurface Sewage Disposal System", Scale: 1' = 20', dated March 26, 2012 and last revised to April 9, 2012, Sheet 1 of 2, prepared by DiVesta Civil Engineering Associates, Inc.
 - c. "Frenes Residence, 115 Roseville Road, Westport, Connecticut, Details", Scale: as noted, dated March 26, 2012 and last revised to April 9, 2012, Sheet 2 of 2, prepared by DiVesta Civil Engineering Associates, Inc
 - d. Architectural Plans entitled: "Proposed Greek Revival Style Residence for Christian and Courtney Frenes, 115 Roseville Road, Westport, CT", 9 sheets, dated August 27, 2011 and last revised to December 6, 2011, prepared by William Oberg, American Classic Homes

- e. Landscape plan and plant list prepared by Cynthia Rabinowitz and received by the Conservation Department on April 12, 2012.
- 13. Construction of the proposed new residence shall be crawl space only.
- 14. Light fixtures and electric service located in the pond shall be removed prior to the issuance of a Conservation Certificate of Compliance.
- 15. Submission of a performance bond estimate in the amount of the cost of plants, erosion control materials and labor to be submitted to the Conservation Department prior to the issuance of a zoning permit.
- 16. All existing and new driveway surfaces are to remain permeable in perpetuity. A deed restriction shall be placed on the land records prior to the issuance of a Certificate of Compliance.

This is a conditional approval. Each and every condition is an integral part of the Commission decision. Should any of the conditions, on appeal from this decision, be found to be void or of no legal effect, then this conditional approval is likewise void. The applicant may refile another application for review.

This approval may be revoked or suspended if the applicant exceeds the conditions or limitations of this approval, or has secured this application through inaccurate information.

Motion: Skinner

Second: Gouverneur

Ayes: Shea, Belzer, Rycenga, Porter, Washburn, Skinner, Gouverneur

Nayes: 0

Abstentions: 0

Vote: 7:0:0

- 4. **41 Crescent Road:** Application #AA-9041-12 by Land-Tech Consultants, Inc on behalf of Roger Quick, Heritage Homes for retaining the existing single family dwelling and subdividing the property into four new single-family building lots outside the upland review area of isolated wetlands.

Tom Ryder of Land-Tech Consultants presented the application for a four-lot subdivision on behalf of the property owner. He stated there are two wetland areas on the property and a lot of ledge.

Ms. Mozian noted there are two wetland pockets but indicated there is no WPLO on the property. She stated the existing house is to remain. In 2010, the Commission voted to invoke Section 9.1.6 of the IWW Regulation to hire an outside consultant to comment on what impact the ledge removal would have on the groundwater and therefore the wetlands. The Town has retained Haley & Aldrich and the lawyers have worked on the contract, which will be signed once a check has been received from the applicant.

Ms. Mozian stated the field trip to the site was postponed to June 15 and/or June 18, 2012, so the owner can stake the lots, the house corners and the wetlands. Also, staff has not received comments from the town's Engineering Department. She added that we would have our consultant start as soon as possible.

Roger Quick stated the property has been in his wife's family since 1925. He indicated that he built Davenport Homes in Stamford and is on the Stamford Planning Board.

Motion to continue the hearing to June 20, 2012.

Motion: **Gouverneur** **Second:** **Rycenga**
Ayes: **Gouverneur, Rycenga, Belzer, Porter, Shea, Skinner, Washburn**
Nayes: **None** **Abstentions:** **None** **Vote:** **7:0:0**

The meeting was adjourned at 9:00 p.m.

Motion: **Gouverneur** **Second:** **Rycenga**
Ayes: **Gouverneur, Rycenga, Belzer, Porter, Shea, Skinner, Washburn**
Nayes: **None** **Abstentions:** **None** **Vote:** **7:0:0**